

# Exhibit 13

## FINANCIAL OVERSIGHT & MANAGEMENT BOARD FOR PUERTO RICO



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Executive Director

### **BY ELECTRONIC MAIL**

March 19, 2021

The Honorable José Luis Dalmau  
President of the Senate of Puerto Rico

The Honorable Rafael Hernández  
Speaker of the House of Representatives of Puerto Rico

Dear President Dalmau and Speaker Hernández:

We write in response to your letter dated March 9, 2021 responding to the Oversight Board's letter dated January 29, 2021 to the Governor, the Senate President, and the Speaker of the House concerning House Bill 120 ("HB 120" or the "Bill"). While we respectfully disagree with your letter, we would like to provide some background.

PROMESA section 108(a)(2) prohibits the Governor and the Legislature from, among other things, enacting any statute "that would impair or defeat the purposes of PROMESA, as determined by the Oversight Board." The Title III Court has already confirmed the Oversight Board's authority under section 108(a)(2) in two different actions. *See* Law 29 Decision, 616 B.R. 238, 252 (D.P.R. 2020) ("The plain language of section 108 allows the Oversight Board to challenge statutes that it has determined impair or defeat the purposes of PROMESA."); *Five Laws Decision*, \_\_ F.Supp.3d \_\_, 2020 WL 7693134, at \*21 (D.P.R. Dec. 23, 2020) (citing the Law 29 decision to explain Oversight Board determinations may only be set aside where they are "arbitrary and capricious.").

In the case of HB 120, the Oversight Board has determined the Bill would impair or defeat the purposes of PROMESA for the following reasons. First, HB 120 attempts to dictate the treatment of billions of dollars of Commonwealth bond debt and would prevent the Commonwealth government from taking any action to support a plan of adjustment that alters that treatment. HB 120 is therefore an attempt to seize control over the Commonwealth's debt restructuring and usurp the exclusive power of the Oversight Board to propose plans of adjustment under PROMESA section 312, and would thus impair or defeat express provisions and a fundamental purpose of PROMESA.

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Second, HB 120 assumes the elimination of billions of dollars of bond obligations, but would transfer every dollar of debt service on such eliminated bond debt to the proposed new pension trust (“FACSiR”). The Commonwealth would thus achieve no debt relief. This assumption ignores that Puerto Rico’s inability to pay its contractual debt obligations is the very reason for the Commonwealth’s need for debt restructuring in the first place. HB 120 would thus impair or defeat the purposes of PROMESA and the Oversight Board to, among other things, return the Commonwealth to fiscal responsibility. PROMESA § 101.

Third, even assuming that all of the legislature’s assumptions regarding the availability of funding sources were correct, these sources are drastically insufficient to fund the retirement benefits HB 120 would reinstate. As the Oversight Board previously explained to the Puerto Rico House of Representatives at a February 17, 2021 presentation, the Oversight Board’s analysis shows FACSiR will likely never cover more than 20 percent of the Commonwealth’s pension obligations under the Bill, and will likely be insolvent by 2053. And should any of the sources of proposed funding listed in HB 120 become unavailable, such as those from reallocating debt service payments for defined “Contested Bonds,” FACSiR will become insolvent much sooner. Troublingly, HB 120 does not specify what happens when FACSiR becomes insolvent. HB 120 would therefore defeat another fundamental purpose of PROMESA, to ensure adequate funding of public pension systems. PROMESA § 201(b)(1)(C).

The Oversight Board is focused on fulfilling this purpose and is committed to understanding the concerns of Puerto Rico’s public servants. Your letter invites the Oversight Board to meet with you to discuss HB 120 and we would be pleased to do so with the hope that further dialogue will enable us all to find common ground on behalf of the people of Puerto Rico.

At our meeting, we would be pleased to discuss the Oversight Board’s concerns regarding HB 120 in more detail, to review the treatment of public pensions in the Plan of Adjustment, and to listen carefully to your concerns. We hope the Legislature will comply with PROMESA section 108(a)(2) and refrain from passing HB 120.

We look forward to working with you for the benefit of the people of Puerto Rico.

Sincerely,



Natalie A. Jaresko

CC: Hon. Domingo Torres García  
Hon. José Vargas Vidot  
Hon. María de L. Ramos Rivera  
Hon. Ana Irma Rivera Lassén  
Hon. Carlos J Méndez Núñez  
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